

JUDGE LEON SCHYDLOWER

Jacob Barreras
2211 E. Missouri Ave # 221
El Paso, TX 79903
Pro Se Plaintiff

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AUG 23 2024
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY *WJ* DEPUTY CLERK

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Jacob Barreras,
Plaintiff,

v.

CENTRAL VIOLATIONS BUREAU, in its official capacity,
Defendant.

Case No.:

EP24CV0300

COMPLAINT FOR DECLARATORY, INJUNCTIVE, MONETARY RELIEF,
AND JURY TRIAL DEMAND

I. INTRODUCTION

1. This action arises under the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101 et seq., and the Rehabilitation Act of 1973, 29 U.S.C. § 794, seeking declaratory, injunctive, and monetary relief against the Central Violations Bureau (CVB) for failing to provide reasonable accommodations to individuals with disabilities.
2. Plaintiff brings this action to challenge the repeated denials of ADA accommodations by the Central Violations Bureau, resulting in significant harm and injury to Plaintiff.
3. Plaintiff seeks relief in the form of compensatory damages for the harm suffered, as well as declaratory and injunctive relief to prevent further violations of their rights under federal law.

II. JURISDICTION AND VENUE

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, as this case arises under the laws of the United States, specifically the ADA and the Rehabilitation Act.
5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), as the events giving rise to this claim occurred in El Paso, Texas, within the jurisdiction of the Western District of Texas.

III. PARTIES

6. **Plaintiff:** Jacob Barreras, a resident of El Paso, Texas, is an individual with disabilities who requested reasonable accommodations from the Central Violations Bureau and was denied several times.
7. **Defendant: Central Violations Bureau,** acting in its official capacity, is responsible for managing violation notices and fines for the federal judiciary and ensuring compliance with the ADA and the Rehabilitation Act.

IV. FACTUAL ALLEGATIONS

8. Plaintiff has disabilities that require specific accommodations to access services and conduct necessary business with the Central Violations Bureau.
9. On multiple occasions, Plaintiff requested ADA accommodations from Defendant's office to facilitate equal access to services.
10. Despite these requests, Plaintiff was repeatedly denied reasonable accommodations, which significantly impaired their ability to access essential services and caused substantial harm.
11. The repeated denials of ADA accommodations constitute a violation of Plaintiff's rights under the ADA and the Rehabilitation Act.

V. CLAIMS FOR RELIEF

COUNT I

Violation of the Americans with Disabilities Act (ADA)

12. Plaintiff re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 11 as if fully set forth herein.
13. The ADA requires that public entities provide reasonable accommodations to individuals with disabilities to ensure equal access to services, programs, and activities.
14. By denying Plaintiff the necessary accommodations, Defendant has violated the ADA.

COUNT II

Violation of the Rehabilitation Act of 1973

15. Plaintiff re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 14 as if fully set forth herein.
16. The Rehabilitation Act prohibits discrimination on the basis of disability in programs conducted by federal agencies and entities that receive federal funding.
17. Defendant has violated the Rehabilitation Act by failing to provide reasonable accommodations to Plaintiff, resulting in harm and injury.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. Declare that Defendant's actions and policies violate the ADA and the Rehabilitation Act.

B. Issue an injunction requiring Defendant to provide reasonable accommodations to individuals with disabilities in accordance with federal law.

C. Award Plaintiff compensatory damages in the amount of \$75,000.00 for the harm suffered due to Defendant's actions, including emotional distress, inconvenience, and additional costs incurred.

D. Award Plaintiff reasonable attorney's fees and costs associated with bringing this action, if applicable.

E. Grant such other and further relief as this Court deems just and proper.

VII. JURY TRIAL DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J Barreras', written in a cursive style.

Jacob Barreras
Pro Se Plaintiff

Appointment Reminder



Southwest **Retina** Consultants

Diseases and Surgery of the Retina and Vitreous

Patient Name:
Jacob Barreras

Date & Time:
9/17/2024 2:00 PM

Resources:
David Metrikin

Location:
SRC-Eastside

Phone #:
(915) 592-3397

Address:
11331 James Watt #400
El Paso TX 79936-6405

Message From The Practice

To expedite your check in, please bring your photo ID, insurance cards, method of payments, authorizations, and changes in your medication list.

For your convenience, we have an automated phone system that will call and remind you of this appointment in advance. Please listen carefully to the full message and confirm your appointment.



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11331 JAMES WATT DR., SUITE 400 • EL PASO, TX 79936 • PHONE: (915) 592-3397
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GREG TRUBOWITZ M.D. • DAVID C. METRIKIN M.D. • JEREMY CUTHBERTSON M.D. • DINESH BAHL M.D. • RICHARD HWANG, M.D. • DANIEL KASUGA, M.D.

Dear Jacob Barreras,

Your clinical summary has been shared with you electronically by your doctor. To access your record, you will need to sign up for an account on our patient portal, MyPatientVisit.

The website link below will take you to the login page for MyPatientVisit. The Security Code and Practice ID will be needed to create your account. If you are a new user and have not yet created an account, please select the option on the right to "Create an account". You can register using your email address that you provided to the office or by creating a username.

Website Link: <https://www.mypatientvisit.com>

Security Code: 1460STA

Practice ID: SWRETINA

Once logged in, click on myDocuments to see a list of Clinical Summary Documents the doctor has shared with you.

Please rest assured that all information provided is kept confidential, secure, and HIPAA compliant.



SOUTHWEST RETINA CONSULTANTS, P.A.
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Name		Chart#	DOB	Refer Doctor
Jacob Barreras		918607	9/30/1977 (46 Years)	Ryan Ockey O.D
Date	Location	PCP	Insurance	
7/18/2024	Southwest Retina Consultants - Central	MOHAMMED ALNAJJAR	Ambetter by Superior - Ambetter By Superior/ Cimerli Solutions - Cimerli Solutions	

Reason For Visit: Follow Up - Resolving Diabetic Macular Edema OD > OS. Severe Nonproliferative Diabetic Retinopathy OU. Chronic Diabetes, Type II with Ocular Complications. Persistent Myopia OU. Well-Controlled Hypertensive Retinopathy OU.

HPI: CC: Blurred Vision. Location: OU. Severity: moderate. Duration of Problem: 1-2 years. Associated Symptoms: no flashes or floaters. Context Onset/Aggravation: nothing specific noted. Quality: blurry. Modifying Factors: none. HPI obtained by M.D. David C Metrikin

Secondary: Floaters OU. Nuclear Sclerosis OU. S/P Lasik OU.

Specialty Meds (Initial): None. 7/18/24 CV.

Mental Status: Alert and oriented x 3, appropriate mood/affect **Hx Source:** Patient **LBS:** 260 this morning 7/18/24 CV **HA1c:** Unknown (Date: 7/18/24)

PSFH/ROS Updated Date: 7/18/24

Medical Hx: Influenza Immunization Not Received. Allergies, Seasonal. Asthma. Diabetes Mellitus. Hypertension, Systemic. Kidney Disease. Pure Hypercholesterolemia, Unspecified. **Surgical Hx:** lasik.

Systemic Meds: atorvastatin (as atorvastatin calcium) 20 MG Oral Tablet 1 qday. Novolog 3ml 15 Units tid. Tresiba 200ml 50iu/day. MONTELUKAST. ALBUTEROL INHALATION SOLUTION 0.83 mg/mL qday. Simvastatin, 20 mg oral tablet qday. HCTZ 12.5 MG / Olmesartan medoxomil 40 MG Oral Tablet [Benicar HCT]. 7/18/24 CV.

Allergies: NKDA.

Family Hx: Diabetes (Father). Cancer (Sister). Kidney Disease (Father). **Social Hx:** Smoking/Tobacco: Never Smoker. Marital Status: Married. Alcohol: Occasional/Social. Substance Abuse: None. Occupation: Working. Living Conditions: Lives with family. Fall Risk: No. Hospice: No.

ROS: Allergy/Immunology: Seasonal Allergies. Cardiovascular: Negative. Constitutional: Negative. Endocrine: Patient Unsure of Glycemic Control. Gastrointestinal: Negative. Genitourinary: Kidney Problems. Hematology/Oncology: Negative. HENT: Runny Nose. HENT: Sore Throat. Integumentary: Negative. Musculoskeletal: Negative. Neurologic: Negative. Psychiatric: Negative. Respiratory: Cough. 7/18/24 CV.

VA OD: Dcc20/25-2. PHNI. **OS:** Dcc20/20. PHNI.

IOP: TP **OD:** 12 **OS:** 14

2:12 PM

Dilation:

Location: OU. **Tech:** CV. **Time:** 2:13 PM. **Drops:** Discussed effects of drops; Discussed effects of drops; warned against driving; Warned against driving; Phenylephrine 2.5%; Proparacaine 0.5%/Tropicamide 1%.

Extended HPI: Pt states after HA1C levels spiked he has been issues with focusing OU along with a lot of blurriness.

External

Right Eye

Left Eye

• General

• Pupils

Round. Brisk. No RAPD.

Round. Brisk. No RAPD.

• Motility

Full. Orthotropic.

Full. Orthotropic.

• CVF

Full.

Full.

• Adnexa

Normal Ocular Adnexa.

Normal Ocular Adnexa.

Anterior

• General

• L/C/S

• Cornea

• Anterior Chamber

• Iris

• Lens

Right Eye

White and Quiet.

S/P Lasik.

Normal Depth. Quiet.

Flat.

Trace NS.

Left Eye

White and Quiet.

S/P Lasik.

Normal Depth. Quiet.

Flat.

Trace NS.

Posterior

• General

• Nerve

• Vitreous

• Retinal Vessels

• Macula

• Periphery

Right Eye

No Disc Edema. No Disc Pallor. No Clinical NFL Defects. CDR 0.1. Myopic Appearing.

Vitreous Floaters.

AV Nicking. Generalized Arteriolar Narrowing. Attenuated Vessels.

Scattered Dot/Blot Hemorrhages. Microaneurysms. Increased Severe Center-Involved Diabetic Macular Edema. 1+ Lipid. RPE Changes.

No Holes or Tears. Microaneurysms. Peripheral RPE Changes. Dot/Blot Hemorrhages.

Left Eye

No Disc Edema. No Disc Pallor. No Clinical NFL Defects. CDR 0.1. Myopic Appearing.

Vitreous Floaters.

AV Nicking. Generalized Arteriolar Narrowing. Attenuated Vessels.

Scattered Dot/Blot Hemorrhages. Microaneurysms. Persistent Moderate Center-Involved Diabetic Macular Edema. 1+ Lipid. RPE Changes.

Stable No Holes or Tears. Microaneurysms. Peripheral RPE Changes. Dot/Blot Hemorrhages.

Fundus Photos (Infrared): Findings OD: Reason For Testing: Monitor Progression. No Disc Edema. Dot/Blot Hemorrhages. Worsening Severe Macular Edema. No Lipid. No Subretinal Fluid. Worse Compared to Prior Study. **Findings OS:** Reason For Testing: Monitor Progression. No Disc Edema. Dot/Blot Hemorrhages. Confirmed Moderate Macular Edema. 1+ Lipid. No Subretinal Fluid. Comparative Data: Improved Compared to Prior Study.

Imp/Plan:

1. Resolving Diabetic Macular Edema OD > OS. Recommend switch to Iluvien for non improvement with Cimerli. Good response to Ozurdex. Stable IOP. Discussed w patient that after comprehensive evaluation and imaging there is evidence of increase of fluid leakage OD, with stability OS-recommend additional injection and close follow up. I went through my findings with the patient and illustrated the area of leakage. I have explained that there is swelling of the macula interfering with visual function. I have also explained that there is evidence of treatable leakage and that consequently, intravitreal Cimerli therapy should be considered. The protocol is likely to require repeated intravitreal injections. Risks associated with intravitreal injection were reviewed and include, but are not limited to infection, bleeding and retinal detachment. While these complications are unusual and often treatable, they could lead to severe or total visual loss. The alternatives were reviewed as well. They are limited to persistent poor vision or visual loss from the underlying retinal disease. The patient expressed understanding and a truly informed consent was obtained for intravitreal injection of Cimerli. Recommend switch to Ozurdex for non response to Cimerli. Based on today's exam and diagnostic studies, the determination was made for treatment today. I explained to the patient that there is swelling in their macula from their diabetic retinopathy. Discussed treatment with intravitreal injection of medication, including the risks (infection, lens damage, retinal detachment, bleeding), alternatives, and the possible need for additional injections. Reviewed expected level of discomfort from betadine prep and reviewed the warning signs of endophthalmitis and the importance of calling for any questions or concerns. All questions were answered to the patient's satisfaction.
 2. Severe Nonproliferative Diabetic Retinopathy OU. Patient understands condition, prognosis and need for follow up care. Retinal exam findings communicated to Physician managing diabetes. Discussed the importance of blood sugar control in the prevention of ocular complications.
 3. Chronic Diabetes, Type II with Ocular Complications. Discussed with the patient the importance of good control of their blood sugar, blood pressure, cholesterol, diet, exercise, weight, and medication usage under the guidance of their diabetic doctor to prevent/halt diabetic retinopathy. Importance of follow up discussed with patient. Educational brochures given to patient.
 4. Persistent Myopia OU. Advised regular use of Amsler grid. Retinal detachment warnings given. Recommended observation. Discussed increased risk of floaters, myopic degeneration and retinal detachment associated with high myopia. Discussed risk of vision loss from secondary CNV, lacquer crack, myopic maculopathy, or retinal detachment. Discussed natural history and visual prognosis related to myopic degeneration.
 5. Well-Controlled Hypertensive Retinopathy OU. Advised patient to follow up with primary care physician for optimal control of modifiable cardiovascular risk factors. Discussed the importance of blood pressure control in the prevention of ocular complications. Recommended observation.
 6. Floaters OU. Reviewed pathophysiology of PVD and the occasional association with tears and retinal detachments. Recommended observation.
 7. Nuclear Sclerosis OU. No cataract surgery recommended at this time. Recommended observation. Cataract not visually significant.
 8. S/P Lasik OU.
- Other Discussion:** Discussed the importance of blood sugar control in the prevention of ocular complications. Retinal exam findings communicated to Physician managing diabetes. Retinal tear and detachment warning symptoms reviewed and patient instructed to call immediately if increasing floaters, flashes, or decreasing peripheral vision. Advised patient that no tears or areas of detachment were seen today on careful examination. Explained that floaters will likely decrease in severity with age and ongoing vitreous liquefaction. Patient understands condition, prognosis and need for follow up care. Advised to call immediately if eye pain or loss of vision. The presence of macula edema findings were communicated to provider. The level of diabetic retinopathy was communicated to provider.

Procedure: Cimerli 0.3mg Bilateral OU. Diagnosis: Diabetic Macular Edema. A single use vial of intravitreal Cimerli 0.3mg/0.05ml was used and excess discarded. Injection, ranibizumab-eqrn (CIMERLI), biosimilar, 0.1 mg. Injection site: 3-4 mm from the limbus. Patient tolerated procedure well. There were no complications. CF vision checked. Post procedure instructions given. Lot #: 2301571/2302311. Expiration Date: 2026-06-01T06:00:00. Inventory Id: 33/131b.

Specialty Meds (Final): None. 7/18/24 CV.

Follow Up: Dr. Metrikin 9 Weeks - Comprehensive Exam. Possible Fundus Photos (Infrared). Possible Intravitreal Iluvien OD. Possible Cimerli 0.3mg OS.

CPT Codes: 92014. 92250. 67028.
Q5128B3.

ICD-9 Codes: 362.07u, 362.06u,
250.50, 367.1u, 362.11u, 379.24u,
366.16u, V45.69u.

ICD-10 Codes: E11.3413u,
H52.13u, H35.033u, H43.393u,
H25.13u, Z98.890u



Signed:

Electronically signed by M.D. David C Metrikin
7/18/2024 3:14:59 PM

Tech: CV